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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 1, 2000

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Magalie Roman Salas, Esquire
Secretary, Federal Communications Commission
The Portals, 445 Twelfth Street, SW
Room TW-A325
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

Re: MM Docket No. 00-108
Amendment of Section 73.658(g) of
The Commission's Rules – the Dual Network Rule

Dear Ms. Salas:

Transmitted herewith on behalf of the Board of Governors of the UPN Affiliates Association are an original and nine copies of its Comments in support of the Commission's proposal in the above-referenced MM Docket.

Should there be any questions, please communicate with the undersigned.

Very truly yours,

Edward W. Hummers, Jr.
Counsel for the Board of Governors
Of the UPN Affiliates Association

ewh:ik
Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In re Matter of	)	MM Docket No. 00-108
	)	
Amendment of Section 73.658(g) of The Commission's Rules – The Dual Network Rule	)))	

To: The Commission

COMMENTS OF THE BOARD OF GOVERNORS OF THE UPN AFFILLIATES ASSOCIATION IN SUPPORT OF THE PROPOSED RULE

The Board of Governors of the UPN Affiliates Association hereby submits its comments in support of the Commission's proposal to amend the "dual network" rule to permit the common ownership of an emerging network by one of the four major networks. In support thereof, the following is stated:

The Board of Governors is the governing body of the UPN Affiliates Association ("UPN Affiliates"), a voluntary association of the television stations affiliated with the United Paramount Television Network. Presently there are 130 primary UPN affiliates (serving 86.5% of U.S. television households) and 61 secondary affiliates (serving 9.8% of the U.S. television households). A network affiliation is of critical economic importance to these stations.

The Commission's *Notice of Proposed Rule Making* in this proceeding concentrates its analysis on the economics of network television. While such an analysis is obviously important, it is equally important to focus on the economic harm that would befall many of the UPN Affiliates were the Commission's rule left unmodified so that it would continue to preclude the common ownership of CBS and UPN. Should that occur, continuation of the UPN network would be in great jeopardy, and, indeed, UPN would be unlikely to survive.

The UPN network is important to the affiliates because it provides (i) a recognized brand promoted locally by each affiliate and nationally by the network; (ii) higher quality first run programming than the affiliates would be able to purchase in syndication; (iii) programming to midsize and smaller market stations owned by single station owners or small group owners; and (iv) higher quality minority and niche programming than could be produced for syndication.

Since the inception of UPN, its affiliates have promoted the network as a differentiating brand to create a separate identity in the affiliates' markets. Together, affiliates and the network have promoted UPN with national advertisers and the national viewing public. Were UPN to terminate, the very large investment in branding would be irrevocably lost and each affiliate would be required to establish a new identity, a daunting task in light of the ever increasing fractionalization of the television market place. The new investment necessary to establish a new identity would coincide with the new investment affiliates are making to implement digital television. These expenditures of funds would greatly impair the economic viability of many UPN Affiliates, particularly those in medium and small markets, and would divert funds that could otherwise be expended on programming.

In addition to the inherent power in buying programming as a network, UPN, owned by Viacom, would be vertically integrated with a program supplier and more capable of buying first-run quality programming than would be available to the UPN Affiliates were they to become independent stations purchasing programs in syndication. The loss of the network programming would also create greater demand for syndicated programming without necessarily creating additional syndicated product. To the contrary, the loss of off-network programming flowing from UPN as an operating network may actually reduce the quantity of syndicated programming available.

An analysis of the 130 UPN primary network affiliates shows that more than half of the affiliates, most operating in midsize to smaller markets, are owned by single station owners or small group owners. Single and small group owners are at a substantial disadvantage in acquiring syndicated programming. Such programming is usually made available first to multiple owners buying for multiple markets, including the larger markets in which they operate, because the large markets are of greater importance to syndicators distributing programming that includes barter spots. The loss of the network is likely to place increased financial pressure on such stations, making the sales of properties to group owners for duopoly operation more likely, thus accelerating the present decline in local TV ownership.

UPN has been in the forefront in distributing programming employing minority actors and has enhanced the diversity of programming available to the public. Many UPN Affiliates located in cities with significant African-American populations have used this programming to strengthen their ties with their communities. If the network is disbanded and the minority programming is not distributed by another network, this diversity, so actively encouraged by the Commission, will be lost.

Unless the Commission revises the dual network rule as proposed to permit the continued operation of UPN and CBS under common ownership, a substantial number of television licensees who have invested many years in UPN will suffer irreparably without any reciprocal benefit to the public. The UPN Affiliates, therefore, strongly endorse the Commission's proposal and ask that it be adopted.

Respectfully submitted,

Board of Governors of the
UPN Affiliates Association

By: ______________________
Edward W. Hummers, Jr.
Its General Counsel

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September 1, 2000

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